IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13554 of 2005

Between:

B.Nagesh S/o.Late Sri Anjaiah
R/o.Plot No.1 (H/No.3-1-523)
SNH Colony, III Venture, Maithrinagar, L.B.Nagar, Ranga Redd District.

..... PETITIONER

AND

1 The Commissioner L.B.Nzagar Municipality LB
Nagar Ranga Reddy District.
2 Bathula Sailu S/o.Gopaiah
Plot No.1 (H..No.3-1-524) SBH Colony III Venture, Maithrinagar, L.B.Nagar, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more in the nature of writ of mandamus declaring the action of the respondent No.1 in not removing the deviations and encroachments contrary to the sanctioned plans issued by the respondent No.1 in proceedings No.Ba/G1/BP/775/94 dt.24.10.1994 (Ground Floor) and proceedings No.G2/BP/568/2002 dt.28.5.2002 (Firs t Floor) in favour of the respondent No.2, pursuant to the petitioners representation dt.15.6.2005 as illegal, arbitrary, unjust and violative of provisions of the A.P. Municipalities Act 1965 while issuing a consequential direction to the respondent No.1 to remove all the encroachments and deviations contrary to the sanctioned plans issued by the respondent No.1 in his proceedings No.Ba/G1/BP/775/94 dt.24.10.1994 (Ground Floor) and proceedings No.G2/BP/568/2002 dt.28.5.2002 (first floor) in the interest of justice and pass such other order or orders.

Counsel for the Petitioner: MR.D.GOVARDHANACHARY

Counsel for the Respondent No.: MR.POLISETTI RADHAKRISHNA (SC FOR MPL)

The Court at the stage of admission made the following :

ORDER:

Heard both sides.

In this Writ Petition, petitioner is seeking a Writ of Mandamus, declaring the action of the first respondent in not removing the deviations and encroachments contrary to the sanctioned plans issued by the first respondent in proceedings No. BA/G1/BP/775/94 dated 24.10.1994 and proceedings No. G2/BP/568/2002 dated 28.5.2002 in favour of the second respondent, pursuant to the petitioner's representation dated 15.6.2005, as illegal arbitrary and consequently direct the first respondent to remove the deviations and encroachments contrary to the sanctioned plan issued by the first respondent.

The grievance of the petitioner is that the second respondent in violation of the sanctioned plan made construction without leaving set backs as required under the sanctioned plan and on the other hand encroached into the petitioner's land by 2 feet raising pillars and footings. When the same was objected by the petitioner, the second respondent instead of removing the encroachment moved the Civil Court and obtained an interim injunction by an order dated 7.6.2005 in I.A.No. 2652/2005 in O.S.No. 1406/2005 on the file of the Principal Junior Civil Judge, Ranga Reddy Distry restricting the petitioner from interfering from plastering and finishing the work. Thereafter, taking the aid of police completed the construction work on 12.6.2005 and wanted to alienate the suit schedule property and received the part consideration. His further grievance is that he filed a representation before the first respondent on 15.6.2005 requesting the first respondent to remove all the structures including encroachments, but the same is still pending till today.

In view of the above facts an circumstances, as the second respondent completed the construction on 12.6.2005 and alienated the same to the third party, I

see no reason to entertain the Writ Petition and it is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, it does not preclude the authorities to consider the representation of the petitioner-dated 15.6.2005, and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

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E. DHARMA RAO, J

DATED: 24/06/2005

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To

1 The Commissioner L.B.Nzagar Municipality LB
Nagar Ranga Reddy District.

2. 2 CD copies

3. 1 CC to MR.GOVARDHANACHARY

4. 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)